TITLE 39
HEALTH AND SAFETY

CHAPTER 3
ALCOHOLISM AND INTOXICATION TREATMENT ACT

39-301. DECLARATION OF POLICY. It is the policy of this state that alcoholics, intoxicated persons or drug addicts may not be subjected to criminal prosecution or incarceration solely because of their consumption of alcoholic beverages or addiction to drugs but rather should be afforded treatment in order that they may lead normal lives as productive members of society.

The legislature hereby finds and declares that it is essential to the health and welfare of the people of this state that action be taken by state government to effectively and economically utilize federal and state funds for alcoholism and drug addiction research, and the prevention and for the treatment and rehabilitation of alcoholics or drug addicts. To achieve this, it is necessary that existing fragmented, uncoordinated and duplicative alcoholism and drug treatment programs be merged into a comprehensive and integrated system for the prevention, treatment and rehabilitation of alcoholics.

The legislature continues to recognize the need for criminal sanctions for those who violate the provisions of the uniform controlled substances act.

[I.C., sec. 39-301, as added by S.L. 1975, ch. 149, sec. 1, p. 376; am. 1976, ch. 98, sec. 1, p. 416; am. 1987, ch. 289, sec. 1, p. 610.]

39-302. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Addiction" or "alcoholism" means a primary, chronic, neurobiological disease with genetic, psychosocial and environmental factors influencing its development and manifestations. It is characterized by behaviors that include one (1) or more of the following: impaired control over drug or alcohol use, compulsive use, continued use despite harm, and craving.

(2) "Adolescent" means an individual twelve (12) years through seventeen (17) years of age.

(3) "Adult" means an individual eighteen (18) years of age or older.

(4) "Alcoholic" means a person who has the disease of alcoholism, which is characterized by behaviors that include one (1) or more of the following: impaired control over alcohol use, compulsive use, continued use despite harm, and craving.

(5) "Approved private treatment facility" means a private agency meeting the standards prescribed in section 39-305(1), Idaho Code, and approved under the provisions of section 39-305(3), Idaho Code, and rules promulgated by the board of health and welfare pursuant to this chapter.

(6) "Approved public treatment facility" means a treatment agency operating under the provisions of this chapter through a contract with the department of health and welfare pursuant to section 39-304(7), Idaho Code, and meeting the standards prescribed in section 39-305(1), Idaho Code, and approved pursuant to section 39-305(3), Idaho Code, and rules promulgated by the board of health and welfare pursuant to this chapter.

(7) "ASAM" means the manual of patient placement criteria for the treatment of substance-related disorders published by the American society of addiction medicine.

(8) "Department" means the Idaho department of health and welfare.

(9) "Director" means the director of the Idaho department of health and welfare.

(10) "Drug addict" means a person who has the disease of addiction, which is characterized by behaviors that include one (1) or more of the following: impaired control over drug use, compulsive use, continued use despite harm, and craving.

(11) "Eligibility screening" means the collection and review of information directly related to the individual's substance use and level of functioning that the department uses to determine whether an individual is eligible for adult or adolescent substance use disorder services available through the department.

(12) "Idaho board of alcohol/drug counselor certification" or "IBADCC" means an entity affiliated with the international certification reciprocity consortium (ICRC) recognized by the department to oversee credentialing of Idaho student of addiction studies and certified alcohol/drug counselors in the state of Idaho.

(13) "Incapacitated by alcohol or drugs" means that a person, as a result of the use of alcohol or drugs, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(14) "Incompetent person" means a person who has been adjudged incompetent by an appropriate court within this state.

(15) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of drugs or alcohol.

(16) "Licensed professional" means a person who holds an active license or registration with the applicable jurisdiction for the profession and provides services within the practice authority for the applicable profession consistent with the laws and regulations of the state where services are provided and consistent with the applicable standard of care.

(17) "National certification commission for addiction professionals" or "NCCAP" means an entity recognized by the department to provide counselor certification and endorsements in the state of Idaho.

(18) "Priority population" means individuals who receive services ahead of other persons. Priority populations are determined yearly by the department and align with federally mandated priorities.

(19) "Recovery support services" means those ancillary, nonclinical services needed for a client to maintain substance abuse or addiction recovery. These services may include transportation, childcare, drug testing, safe and sober housing and care management.

(20) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(21) "Treatment" means the broad range of emergency, outpatient, intensive outpatient, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, and vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons and/or drug addicts.

[39-302, added 1975, ch. 149, sec. 1, p. 376; am. 1987, ch. 289, sec. 2, p. 610; am. 2006, ch. 407, sec. 1, p. 1232; am. 2008, ch. 94, sec. 1, p. 259; am. 2012, ch. 107, sec. 3, p. 288; am. 2025, ch. 178, sec. 3, p. 843.]

39-304. COMPREHENSIVE PROGRAM FOR TREATMENT. The Idaho department of health and welfare is hereby designated as the state substance abuse authority.

(1) The department shall establish a comprehensive and coordinated program for the treatment of alcoholics, intoxicated persons and drug addicts.

(2) The program shall include:

(a) Emergency detoxification treatment and medical treatment directly related thereto provided by a facility affiliated with or part of the medical service of a general hospital;

(b) Inpatient treatment;

(c) Intensive outpatient treatment;

(d) Outpatient treatment;

(e) Community detoxification provided by an approved facility; and

(f) Recovery support services.

(3) The department shall provide for adequate and appropriate treatment for persons admitted pursuant to section 39-307, Idaho Code. Treatment shall not be provided at a correctional institution except for inmates.

(4) The department shall maintain, supervise, and control all facilities operated by it. The administrator of each such facility shall make an annual report of its activities to the director in the form and manner the director specifies.

(5) All appropriate public and private resources shall be coordinated with and utilized in the program whenever possible.

(6) The department shall prepare, publish and distribute annually a list of all approved public and private treatment facilities.

(7) The department may contract for the use of any facility as an approved public treatment facility if the director considers this to be an effective and economical course to follow.

(8) The program shall include an individualized treatment plan prepared and maintained for each client.

[39-304, added 1975, ch. 149, sec. 1, p. 376; am. 1987, ch. 289, sec. 4, p. 612; am. 1989, ch. 282, sec. 3, p. 693; am. 2006, ch. 407, sec. 5, p. 1236; am. 2007, ch. 69, sec. 3, p. 186; am. 2008, ch. 94, sec. 2, p. 260; am. 2012, ch. 107, sec. 5, p. 290.]

39-305. STANDARDS FOR PUBLIC AND PRIVATE TREATMENT FACILITIES -- ENFORCEMENT PROCEDURES -- PENALTIES. (1) The board of health and welfare shall establish standards for approved treatment facilities, which shall be met in order for a treatment facility to be approved as a public or private treatment facility. The standards shall prescribe the health standards to be met and standards of treatment to be afforded patients.

(2) The department shall periodically inspect approved public and private treatment facilities.

(3) The department shall maintain a list of approved public and private treatment facilities.

(4) Each approved public and private treatment facility shall file with the department any data, statistics, records, and information the department reasonably requires. An approved public or private treatment facility that, without good cause, fails to furnish any data, statistics, records, or information as requested, or that files fraudulent returns thereof, shall be removed from the list of approved treatment facilities.

(5) The board of health and welfare, after holding a hearing, may suspend, revoke, limit, or restrict an approval, or refuse to grant an approval, for failure to meet its standards.

(6) A district court may restrain any violation of this act, review any denial, restriction, or revocation of approval, and grant other relief required to enforce its provisions.

[I.C., sec. 39-305, as added by S.L. 1975, ch. 149, sec. 1, p. 376.]

39-305A. QUALIFIED SUBSTANCE USE DISORDERS PERSONNEL. Each behavioral health program providing substance use disorders services shall employ the number and variety of staff needed to provide the services and treatments offered by the program as a multidisciplinary team. The program shall employ at least one (1) qualified substance use disorders professional for each behavioral health program location. For purposes of this section, "qualified substance use disorders professional" means an IBADCC-certified alcohol/drug counselor, an IBADCC-certified advanced alcohol/drug counselor, a master addictions counselor certified by the national board for certified counselors or the NCCAP, or a licensed professional.

[39-305A, added 2025, ch. 178, sec. 4, p. 844.]

39-305B. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL TRAINEES. (1) Prior to beginning work, a qualified substance use disorders professional trainee practicing in the provision of substance use disorders services shall possess either:

(a) A substance use disorder associate certification; or

(b) Formal documentation of current enrollment in a program for any licensed professional consistent with section 39-305A, Idaho Code.

(2) An individual who has completed a certification program described in section 39-305A, Idaho Code, and is awaiting licensure may continue as a qualified substance use disorders professional trainee at the same agency for a period of six (6) months from the date of program completion.

[39-305B, added 2025, ch. 178, sec. 5, p. 845.]

39-305C. WAIVER OF CRIMINAL HISTORY AND BACKGROUND CHECK. (1) Anyone who receives an unconditional denial or a denial after an exemption review by the department may apply for a behavioral health waiver to provide substance use disorder treatment or recovery support services.

(2) A person seeking a waiver pursuant to subsection (1) of this section may work or have access to participants only under supervision until the waiver request is processed and approved.

[39-305C, added 2025, ch. 178, sec. 6, p. 845.]

39-306. ELIGIBILITY SCREENING -- CLINICAL ASSESSMENT -- ELIGIBILITY DETERMINATION. (1) Individuals may access substance use disorder services administered by the department through an eligibility screening. The eligibility screening shall be directly related to the individual's substance-related disorder and level of functioning, and shall include questions about the individual's substance use, substance use history, and income and living situation.

(2) Once an individual is found eligible for substance use disorder services, the individual will be authorized to receive a clinical assessment from a treatment provider in the department's substance use disorder services network to determine ASAM level of care.

(3) The department may limit or prioritize adult or adolescent substance use disorder services, impose income limits, define eligibility criteria, and establish the number of persons eligible based on such factors as court-ordered services, availability of funding, the degree of financial need, or the degree of clinical need. To be eligible for substance use disorder services, an individual must:

(a) Be an adult or adolescent with family income at or below federal poverty guidelines established by the department;

(b) Be a resident of the state of Idaho;

(c) Be a member of a priority population;

(d) Meet diagnostic criteria for a substance-related disorder as described in the DSM-5; and

(e) Meet specifications in each of the ASAM dimensions required for the recommended level of care.

[39-306, added 2025, ch. 178, sec. 8, p. 845.]

39-306A. SELECTION OF SERVICE PROVIDERS. A participant who is eligible for substance use disorder services may choose a service provider that is in the contracted substance use disorder provider network. Treatment services must be within the recommended level of care according to ASAM based on the individual's needs identified in the clinical assessment and resulting individualized service plan.

[39-306A, added 2025, ch. 178, sec. 9, p. 846.]

39-306B. RESIDENTIAL TREATMENT SERVICES. Any contractor with the department providing residential treatment services under this chapter must be nationally accredited by the commission on accreditation of rehabilitation facilities and have an ASAM level of care certification, which verifies the program's capacity to deliver services consistent with level III ASAM standards of care.

[39-306B, added 2025, ch. 178, sec. 10, p. 846.]

39-307. VOLUNTARY TREATMENT OF ALCOHOLICS AND DRUG ADDICTS. (1) An alcoholic or a drug addict may apply for voluntary treatment directly to any approved public treatment facility. If the proposed patient is a minor or an incompetent person, he, a parent, legal guardian, or other legal representative shall make the application.

(2) Subject to rules adopted by the board of health and welfare, the director or his designee may determine who shall be admitted to an approved public treatment facility.

(3) If a patient receiving inpatient care leaves an approved public treatment facility, he shall be encouraged to consent to appropriate outpatient or intensive outpatient treatment, and the department shall assist in obtaining supportive services and residential facilities.

(4) If a patient leaves an approved public treatment facility, upon the recommendation of departmental staff, the department shall make reasonable provisions for his transportation to another facility or to his home. If he

has no home, he shall be assisted in obtaining shelter. If the patient is a minor or an incompetent person, the request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other legal representative or by the minor or incompetent if he was the original applicant.

[39-307, as added by S.L. 1975, ch. 149, sec. 1, p. 376; am. 1987, ch. 289, sec. 6, p. 613; am. 2008, ch. 94, sec. 4, p. 261.]

39-307A. PROTECTIVE CUSTODY. (a) An intoxicated or drug addicted person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved public treatment facility, an approved private treatment facility, or other health facility by a law enforcement officer.

(b) A person who appears to be incapacitated by alcohol or drugs shall be taken into protective custody by a law enforcement officer and forthwith brought to an approved treatment facility for emergency treatment. If no approved treatment facility is readily available he may be taken to a city or county jail where he may be held until he can be transported to an approved treatment facility, but in no event shall such confinement extend more than twenty-four (24) hours. A law enforcement officer, in detaining the person and in taking him to an approved treatment facility, is taking him into protective custody and shall make every reasonable effort to protect his health and safety. In taking the person into protective custody, the detaining officer may take reasonable steps to protect himself. A taking into protective custody under this section is not an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(c) A person who comes voluntarily or is brought to an approved treatment facility shall be examined as soon as possible. He may then be admitted as a patient or referred to another health facility. The referring approved treatment facility shall arrange for his transportation.

(d) A person who by examination is found to be incapacitated by alcohol or drugs at the time of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility (1) once he is no longer incapacitated by alcohol or drugs or (2) if he remains incapacitated by alcohol or drugs for more than seventy-two (72) hours after admission as a patient. A person may consent to remain in the facility as long as the person in charge believes appropriate.

(e) If a patient is admitted to an approved treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, his request shall be respected.

(f) Law enforcement officers, personnel of the department, and personnel of an alcohol or drug treatment facility who act in compliance with this section are acting in the course of their official duty and are not criminally or civilly liable therefor.

(g) If the person in charge of the approved treatment facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

(h) That any person taken to a seventy-two (72) hour evaluation and treatment facility shall be informed immediately that he has the right to request and take a chemical test in order to ascertain whether he is an intoxicated or addicted person. If the person requests to take the test and the professional person in charge of the facility then determines that

the person taken to the facility is not intoxicated or addicted, he shall immediately release him. A record shall be maintained by the facility of the results of the test.

[39-307A, added 1976, ch. 98, sec. 3, p. 417; am. 1987, ch. 289, sec. 7, p. 613.]

39-309. PAYMENT FOR TREATMENT -- FINANCIAL ABILITY OF PATIENTS. (1) An individual receiving substance use disorder services through the department shall be responsible for paying for the services received. The financial responsibility for each service shall be based on the individual's ability to pay as determined by the department.

(2) If treatment is provided by the department and the patient has not paid the charge for the treatment, the department is entitled to any income or payment received by the patient or to which he may be entitled for the services rendered, and to any payment from any public or private source available to the department because of the treatment provided to the patient.

(3) A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability, is liable to the department for the cost of transportation, maintenance and treatment of the patient therein in accordance with rates established by the department.

[39-309, added 1975, ch. 149, sec. 1, p. 376; am. 1976, ch. 98, sec. 4, p. 419; am. 2025, ch. 110, sec. 9, p. 581; am. 2025, ch. 178, sec. 11, p. 846; am. 2026, ch. 251, sec. 10, p. 1061.]

39-310. CRIMINAL LAW LIMITATIONS. (1) With the exception of persons below the statutory age for consuming alcoholic beverages and of persons affected by the provisions of subsection (3) herein, no person shall be incarcerated or prosecuted criminally or civilly for the violation of any law, ordinance, resolution or rule that includes drinking, being a common drunkard, or being found in an intoxicated or addicted condition as one of the elements of the offense giving rise to criminal or civil penalty or sanction.

(2) No county, municipality, or other political subdivision may interpret or apply any law of general application to circumvent the provision of subsection (1) of this section.

(3) Nothing in this chapter shall affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol or drugs, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages or drugs at stated times and places or by a particular class of persons, or regarding the carrying of a concealed weapon when intoxicated or under the influence of an intoxicating drink or drug, or regarding pedestrians who are under the influence of alcohol or drugs to a degree which renders them a hazard and who walk or are otherwise upon a highway except on a sidewalk, or regarding persons who are using or are under the influence of controlled substances or narcotic drugs and who are on public property, roadways or conveyances or on private property open to the public.

(4) This chapter shall not limit or alter the terms or effect of section 18-116, Idaho Code.

(5) Nothing in this chapter shall affect the enforcement of any other provisions of the uniform controlled substances act.

[39-310, added 1975, ch. 149, sec. 1, p. 376; am. 1987, ch. 289, sec. 9, p. 615; am. 2002, ch. 189, sec. 1, p. 544.]